

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

ANDREW COOPER, a/k/a Anderson
Cooper,
Petitioner-Appellant,

v.

No. 97-6422

ROBERT E. WARD, Warden;
CHARLES C. CONDON, Attorney
General,
Respondents-Appellees.

Appeal from the United States District Court
for the District of South Carolina, at Columbia.
Joseph F. Anderson, Jr., District Judge.
(CA-96-944-3-17BC)

Submitted: April 29, 1998

Decided: May 15, 1998

Before MURNAGHAN, NIEMEYER, and WILLIAMS,
Circuit Judges.

Dismissed by unpublished per curiam opinion.

COUNSEL

Andrew Cooper, Appellant Pro Se. Donald John Zelenka, Chief Deputy Attorney General, Columbia, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Appellant seeks to appeal the district court's order denying his motion filed under 28 U.S.C. § 2254 (1994) (current version at 28 U.S.C.A. § 2254 (West 1994 & Supp. 1998)). Appellant's case was referred to a magistrate judge under 28 U.S.C. § 636(b)(1)(B) (1994). The magistrate judge recommended denying relief and advised Appellant that failure to file timely, specific objections to the recommendation could waive appellate review of a district court order based upon the recommendation. Despite this warning, Appellant failed to so object to the magistrate judge's findings and recommendations and instead raised for the first time an ineffective assistance of counsel claim not presented to the magistrate judge.

The timely filing of specific objections to a magistrate judge's findings and recommendations is necessary to preserve appellate review of the substance of that recommendation when the parties have been warned that failure to object will waive appellate review. See Thomas v. Arn, 474 U.S. 140, 147-48 (1985); Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984). Appellant has waived appellate review by failing to file specific objections after receiving proper notice. See Howard v. Secretary of Health & Human Servs., 932 F.2d 505, 507-09 (6th Cir. 1991); Lockert v. Faulkner, 843 F.2d 1015, 1019 (7th Cir. 1988).

With regard to Appellant's ineffective assistance of counsel claim raised for the first time in the objections to the magistrate judge's recommendations, we find that the district court properly declined to address that claim. See United States v. George, 971 F.2d 1113, 1117-18 (4th Cir. 1992) (holding that district court must consider all arguments directed at issue, including those not presented to the magistrate judge, "provided that proper objection to the magistrate's proposed finding . . . has been made and the appellant's right to de novo

review by the district court thereby established"). We accordingly deny a certificate of probable cause and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED